

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING AN INSURER AND CLAIMANT FROM ENTERING INTO A SETTLEMENT AGREEMENT FOR WORKERS' COMPENSATION BENEFITS WHEN AN INITIAL WORKERS' COMPENSATION CLAIM HAS BEEN DENIED; AMENDING SECTION 39-71-741, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-741, MCA, is amended to read:

"39-71-741. Compromise settlements and lump-sum payments. (1) ~~By~~ Except as provided in subsection (5), by written agreement filed with the department, benefits under this chapter may be converted in whole or in part into a lump sum. An agreement is subject to department approval. If the department fails to approve or disapprove the agreement in writing within 14 days of the filing with the department, the agreement is approved. The department shall directly notify a claimant of a department order approving or disapproving a claimant's compromise or lump-sum payment. Upon approval, the agreement constitutes a compromise and release settlement and may not be reopened by the department. The department may approve an agreement to convert the following benefits to a lump sum only under the following conditions:

~~(a) all benefits if a claimant and an insurer dispute the initial compensability of an injury and there is a reasonable dispute over compensability;~~

~~(b) (a) permanent partial disability benefits~~ if an insurer has accepted initial liability for an injury. The total of any permanent partial lump-sum conversion in part that is awarded to a claimant prior to the claimant's final award may not exceed the anticipated award under 39-71-703. The department may disapprove an agreement under this subsection ~~(1)(b)~~ (1)(a) only if the department determines that the lump-sum conversion amount is inadequate.

~~(c) (b) permanent total disability benefits~~ if the total of all lump-sum conversions in part that are awarded to a claimant do not exceed \$20,000. The approval or award of a lump-sum permanent total disability payment in whole or in part by the department or court ~~must be~~ is the exception. It may be given only if the worker has demonstrated financial need that:

1 (i) relates to:

2 (A) the necessities of life;

3 (B) an accumulation of debt incurred prior to the injury; or

4 (C) a self-employment venture that is considered feasible under criteria set forth by the department; or

5 (ii) arises subsequent to the date of injury or arises because of reduced income as a result of the injury;

6 or

7 ~~(d)~~ (c) except as otherwise provided in this chapter, all other compromise settlements and lump-sum
8 payments agreed to by a claimant and insurer.

9 (2) Any lump-sum conversion of benefits under this section must be converted to present value using
10 the rate prescribed under subsection (3)(b).

11 (3) (a) An insurer may recoup any lump-sum payment amortized at the rate established by the
12 department, prorated biweekly over the projected duration of the compensation period.

13 (b) The rate adopted by the department must be based on the average rate for United States 10-year
14 treasury bills in the previous calendar year.

15 (c) If the projected compensation period is the claimant's lifetime, the life expectancy must be
16 determined by using the most recent table of life expectancy as published by the United States national center
17 for health statistics.

18 (4) A dispute between a claimant and an insurer regarding the conversion of biweekly payments into
19 a lump sum is considered a dispute for which a mediator and the workers' compensation court have jurisdiction
20 to make a determination. If an insurer and a claimant agree to a compromise and release settlement or a
21 lump-sum payment but the department disapproves the agreement, the parties may request the workers'
22 compensation court to review the department's decision.

23 (5) An insurer and claimant may not enter into an agreement to settle a claim for benefits if the initial
24 workers' compensation claim has been denied."

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26 **NEW SECTION. Section 2. Effective date -- applicability.** [This act] is effective on passage and
27 approval and applies to an injury or occupational disease occurring on or after [the effective date of this act].

28 - END -